

201202858

Adriatic Xhidija

A woman was returning to her apartment after a trip to a bodega at 1:34 a.m. when she was stopped by two officers, including PO Xhidija, who told her they could arrest her if she did not have identification. She called her brother, who brought her identification to show the officers. The brother recorded audio of the interaction. When he brought the ID, PO Xhidija asked him, "I asked you a question, are you retarded," and then pushed him against a wall.

In their CCRB interviews, the officers provided inconsistent accounts of the incident. PO Xhidija stated that no stop or frisk had taken place, and when played the recording of him speaking rudely, denied that it was his voice. His partner stated that they had been looking for a missing female, and that they had encountered the brother first, and the sister later. When played the audio recording of the incident, the partner confirmed that the voice was PO Xhidija. No stop and frisk forms were prepared after the incident.

The CCRB substantiated both officers for abuse of authority, substantiated allegations that PO Xhidija used discourteous language, and found that PO Xhidija made a false statement in his CCRB interview when he failed to identify his own voice.

The NYPD issued PO Xhidija a command discipline and forced him to forfeit three vacation days for the improper frisk and for failing to document the frisk in his memo book, but did not issue any penalty for a false statement.

The Brooklyn DA letter regarding PO Xhidija describes the CCRB finding as "OMN – Other Misconduct" and disclosed the NYPD finding that he failed to document a stop in his memo book.

The NYPD found PO Xhidija made "misleading statements" in a separate investigation two years later.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Natnari Linwong	Team: Team # 2	CCRB Case #: 201202858	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wed, 02/29/2012 1:20 AM	Location of Incident: [REDACTED]	Precinct: 60	18 Mo. SOL 08/29/2013	EO SOL 8/29/2013	
Date/Time CV Reported Mon, 03/05/2012 12:21 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/05/2012 12:21 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Molaro	02937	§ 87(2)(b)	PSA 1
2. POM Adriatic Xhidija	30656	§ 87(2)(b)	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A . POM Adriatic Xhidija	Abuse of Authority: Officer Adriatic Xhidija stopped § 87(2)(b).	A . § 87(2)(g)
B . POM Adriatic Xhidija	Discourtesy: Officer Adriatic Xhidija spoke rudely to § 87(2)(b).	B . § 87(2)(g)
C . POM Adriatic Xhidija	Abuse of Authority: Officer Adriatic Xhidija stopped § 87(2)(b).	C . § 87(2)(g)
D . POM Matthew Molaro	Abuse of Authority: Officer Matthew Molaro stopped § 87(2)(b).	D . § 87(2)(g)
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
I . POM Adriatic Xhidija	Other: Officer Adriatic Xhidija made a false official statement when he denied conducting any stops, being at § 87(2)(b) hearing his own voice on a recording and calling an individual "retarded".	I . § 87(2)(g)

Case Summary

On March 5, 2012, § 87(2)(b) filed a CCRB complaint by phone (encl. 3A-B).

On February 29, 2012, at approximately 1:20 a.m., § 87(2)(b) and his sister, § 87(2)(b) were at § 87(2)(b) in Brooklyn when they were approached by Officers Matthew Molaro and Adriatic Xhidiya. They were not arrested or issued summonses. The following allegations resulted from the incident:

- **Allegation A – Abuse of Authority:** Officer Adriatic Xhidiya stopped § 87(2)(b)
- **Allegation B – Discourtesy:** Officer Adriatic Xhidiya spoke rudely to § 87(2)(b)
- **Allegation C – Abuse of Authority:** Officer Adriatic Xhidiya stopped § 87(2)(b)
- **Allegation D – Abuse of Authority:** Officer Matthew Molaro stopped § 87(2)(b)

§ 87(2)(g)

- § 87(4-b), § 87(2)(g)
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- **Allegation I– Other:** PO Adriatic Xhidiya made a false official statement when he denied conducting any stops, being at § 87(2)(b) hearing his own voice on a recording and calling an individual "retarded".

§ 87(2)(g)

Mediation was not offered to § 87(2)(b) and § 87(2)(b)

This case was originally assigned to Investigator Constantinos Stivaros. It was reassigned to Investigator Natnari Linwong upon Investigator Stivaros' resignation.

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On March 21, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 4A-E).

On February 29, 2012, at approximately 1:20 a.m., § 87(2)(b) was walking home from the store to her apartment at § 87(2)(b) in Brooklyn. She cut through § 87(2)(b) to get to her building, which is behind it. § 87(2)(b) was behind § 87(2)(b) when a marked police van pulled up. Officer Adriatic Xhidija, who was identified through investigation, exited the passenger seat, approached § 87(2)(b) and asked her for her name. § 87(2)(b) described Officer Xhidija as a white male, 6'2" tall and 230 lbs. with a medium build and brown hair.

Officer Xhidija told § 87(2)(b) he was looking for a female but did not provide any further description or say why he was looking for a female. He asked for § 87(2)(b)'s ID, and she told him that she did not have an ID on her. Officer Xhidija told her she could be arrested for not having ID and he would have to take her in. § 87(2)(b) asked if she could call her brother to bring her ID, and Officer Xhidija agreed. § 87(2)(b) called her brother, § 87(2)(b) to come and bring her ID.

Officer Matthew Molaro, who was also identified through investigation, exited the driver's seat of the vehicle and entered the building with Officer Xhidija. § 87(2)(b) described Officer Molaro as a white male, between 5'4" and 5'6" tall with a large build, black hair, and glasses. § 87(2)(b) waited outside the door for her brother. Shortly afterwards, § 87(2)(b) came downstairs and gave § 87(2)(b) her ID, and they both started to walk away. Both officers followed them and Officer Xhidija grabbed § 87(2)(b)'s arms, pushed him against a wall, put his hands behind his back, and held him on the wall for approximately three minutes. § 87(2)(b) was yelling and cursing and § 87(2)(b) was yelling. § 87(2)(b) resisted by moving his arms, which freed his arms from the officers. § 87(2)(b)'s sister, arrived on scene at this point and asked what was going on. The officers then said they were going to let § 87(2)(b) and § 87(2)(b) go, called them "punks," and walked away. The officers never wrote down any information.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On March 21, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 5A-E). § 87(2)(g)

On February 29, 2012 at approximately 1:20 a.m., § 87(2)(b) was at home when he received a call from § 87(2)(b) informing him that she was being harassed by police officers behind § 87(2)(b) because she did not have an ID. § 87(2)(b) immediately left and went to give his sister her ID. § 87(2)(b) walked through § 87(2)(b) to get to the back of the building. There were two uniformed officers standing near the door to the back of the building where § 87(2)(b) was. He also turned on an audio recorder on his cell phone at this time. Officer Xhidija asked § 87(2)(b) for his name. § 87(2)(b) ignored him and walked out the door to get § 87(2)(b). § 87(2)(b) described Officer Xhidija as a white male, 6'2" tall and 180-200 lbs with dark hair.

Officer Xhidija said "Are you retarded? I asked you a question," and followed him out. Officer Xhidija grabbed § 87(2)(b)'s forearms, put his hands behind his back, and pushed him against the open door. § 87(2)(b) resisted by moving his shoulders and arms from side to side and

yelling that the officers had no authority over him. Officer Xhidija attempted to handcuff § 87(2)(b). Officer Molaro stood to the side and watched. § 87(2)(b) described Officer Molaro as a white male, 5'10" or 5'11" tall and 180-200 lbs. with dark hair and brown eyes.

§ 87(2)(b) came on scene at this point and asked what was going on. Officer Xhidija let go of § 87(2)(b) and the officers then left the scene. § 87(2)(b) turned off the recorder at this point. The officers did not speak to § 87(2)(b) or § 87(2)(b) while § 87(2)(b) was on scene. § 87(2)(b) noticed a marked police van in the vicinity. The three siblings then went back home.

Audio Recording

In his CCRB interview, § 87(2)(b) played a recording of the incident and narrated it. The recording begins at 1:24 a.m. and ends at 1:25 a.m. on February 29, 2012. It begins when § 87(2)(b) entered § 87(2)(b) and ends after he was let go and was leaving the scene.

Officer Xhidija is heard saying, "Who are you?" The door can be heard opening as § 87(2)(b) ignores Officer Xhidija. At 00:16 on the recording, Officer Xhidija tells § 87(2)(b) "We asked you a question. Are you retarded? Hold on. Come here." § 87(2)(b) asks what the problem is, and Officer Xhidija tells him to stop. § 87(2)(b) and § 87(2)(b) shout at the same time, and what § 87(2)(b) says is unintelligible. § 87(2)(b) repeatedly asks the officers what authority they have over him and what crime he committed. Officer Xhidija says, "I'm asking you for your ID," and § 87(2)(b) repeats that the officers have no authority and that they are being recorded.

The audio file of this recording is in IA #23, and the full transcription is included in the case file (encl. 6A).

Attempts to Contact Witness (encl. 14C-D, 15C-D)

Between March 22, 2012, and April 3, 2012, § 87(2)(b) was sent two letters. The investigator called the § 87(2)(b) home phone on March 22, 2012, and left § 87(2)(b) a message. § 87(2)(b) called back on the same date and stated that he did not want § 87(2)(b) to provide a statement, but would pass the message along to her. A LexisNexis search yielded one alternate phone number for § 87(2)(b) but when the number was called on April 10, 2012, it was out of service. The letters to § 87(2)(b) were not returned and she has not contacted the CCRB. A search of the Department of Corrections website confirmed that she was not incarcerated as of July 31, 2012.

NYPD Statements:

Subject Officer: OFFICER MATTHEW MOLARO

- *White male, § 87(2)(b), 5'7" tall and 240 lbs. with salt-and-pepper hair and hazel eyes.*
- *Officer Molaro was assigned to Sectors A through D with Officer Xhidija from 7:05 p.m. on February 28, 2012, until 3:40 a.m. on the following day. He was dressed in uniform and assigned to a marked van. He was the operator of the van.*

Memo Book

Officer Molaro had no memo book entries regarding this incident, and had the following entries for the time of the incident: At 11:40 p.m., received radio run of missing at § 87(2)(b). At 12:10 a.m., family dispute at § 87(2)(b). At 12:20

a.m., family dispute unfounded, two summonses issued. At 12:45 a.m., vertical patrol at § 87(2)(b) in regard to missing person. At 2:20 a.m., missing returned.

CCRB Testimony

Officer Molaro was interviewed at the CCRB on July 26, 2012 (encl. 7A-E).

At 11:40 p.m. on February 28, 2012, Officers Molaro and Xhidiya received a radio run regarding a female who had been reported missing from her apartment at § 87(2)(b). The female was approximately § 87(2)(b), and her mother stated that she had gone missing at approximately 11:00 p.m. The officers responded to § 87(2)(b) but at 12:10 a.m. on February 29, 2012, they were then assigned a job regarding a family dispute at § 87(2)(b). Because the dispute took precedence, the officers went to § 87(2)(b), where they unfounded the job and issued two individuals summonses. They returned to § 87(2)(b) at 12:45 a.m. to look for the missing girl.

At approximately 1:30 a.m., they were in the lobby of the building when § 87(2)(b) entered through the rear of the building and passed through the lobby. He was smoking a cigarette and had headphones on. Officer Molaro believed Officer Xhidiya spoke to § 87(2)(b) and either asked him if he lived in the building or if he had seen the missing girl. § 87(2)(b) became very loud and cursed at the officers, telling them that he did not have to talk to them. Officer Molaro asked if he lived in § 87(2)(b) and he said he lived in the building next door. One of the officers asked § 87(2)(b) for his ID to confirm his address. Officer Molaro did not believe § 87(2)(b) provided his ID.

He continued to walk and exited the building through the front entrance. The officers followed him and spoke with him outside the entrance. About two or three minutes after the officers initially spoke to § 87(2)(b) then exited the building § 87(2)(b) had indicated he lived in. § 87(2)(b) began yelling at the officers, asking why they had stopped § 87(2)(b) and screaming that he had not done anything wrong. The officers had not seen or interacted with her prior to this point. Officer Xhidiya said they were just asking § 87(2)(b) questions because they were looking for a missing girl. Both § 87(2)(b) and § 87(2)(b) continued to be loud and belligerent, cursing and screaming. Officer Molaro believed § 87(2)(b) was asked for her ID because the officers were considering issuing her a disorderly conduct summons, but was not certain of this.

§ 87(2)(b) demanded the officers' names and shield numbers, which they provided. § 87(2)(b) and § 87(2)(b) told the officers that § 87(2)(b) had just been arrested a few weeks before, and they were angry about that situation. The officers' interaction with the individuals lasted for three or four minutes after § 87(2)(b) arrived. Officer Molaro then told her and § 87(2)(b) to have a good night because he was more concerned about finding the missing girl. Neither officer threatened to arrest either § 87(2)(b) or § 87(2)(b). Officer Molaro did not believe there was any physical contact between the officers and § 87(2)(b) including placing him against a wall.

Officer Molaro initially stated that he did not recall either himself or Officer Xhidiya calling § 87(2)(b) "retarded." However, he listened to the recording § 87(2)(b) provided and stated that he recognized the interaction from this incident. He stated that he heard § 87(2)(b)s, § 87(2)(b)s, and Officer Xhidiya's voices on the recording, and did not hear his own. He stated that the only officer speaking on the recording was Officer Xhidiya, and specifically confirmed that

the voice saying to § 87(2)(b) “We asked you a question. Are you retarded?” sounded like that of Officer Xhidija. No officers other than Officers Molaro and Xhidija were present at the scene.

Subject Officer: OFFICER ADRIATIC XHIDIJA

- *White male, § 87(2)(b), 6’1” tall and 235 lbs. with brown hair and eyes.*
- *Officer Xhidija worked a patrol assignment from 11:15 p.m. on February 28, 2012, until 7:50 a.m. on the following day. He did not recall who his partner was and did not have this information noted in his memo book. He was assigned to a marked van and was dressed in uniform.*

Memo Book

Officer Xhidija had no memo book entries regarding the incident, and the following entries for the time of the incident: At 1:00 a.m., vertical patrol at § 87(2)(b). At 1:10 a.m., resumed patrol. At 1:50 a.m., Brooklyn South mobilization at § 87(2)(b).

CCRB Testimony

Officer Xhidija was interviewed at the CCRB on July 20, 2012 (encl. 8A-E).

Officer Xhidija had no recollection of the incident. At 1:50 a.m., he responded to a Level I mobilization in § 87(2)(b). When he arrived at the location, he learned that the mobilization was a drill. He had no interactions with any civilians during the mobilization.

Officer Xhidija stated that he did not conduct any stops on the date of the incident, and that if he had, they would have been noted in his memo book. He denied being at § 87(2)(b) at any time on the date of the incident. He was given a brief summary of the incident, but the details did not sound familiar to him. He did not recognize § 87(2)(b) and § 87(2)(b) when shown their photographs. When told that the roll call indicates that he worked with Officer Molaro, he stated that this was possible, but had no specific recollection. He did not recall if he was the driver or passenger of the van he was assigned to. He then listened to the audio recording § 87(2)(b) provided of the incident and did not recall having any such interaction on the date of the incident. He did not recognize any of the voices on the recording and did not hear his own voice on the recording. He stated that he did not call any individual “retarded” on the date of the incident and did not hear any other officer do so.

NYPD Documents

Roll Call (encl. 10A-F)

According to the PSA 1 roll call for Tour 1 of February 29, 2012, Officers Molaro and Xhidija were assigned to Sectors ABCD in vehicle #§ 87(2)(b).

Stop-and-Frisk Report/Log (encl. 9A-B)

No stop-and-frisk reports were filed for this incident.

SPRINT (encl. 16H)

There were no SPRINT reports for the time and location of the incident.

Status of Civil Proceedings (encl. 13A)

As of August 15, 2012, more than two months after the filing date, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the City of New York with regard to this incident.

Civilian Criminal Histories (encl. 12A-D)

As of July 31, 2012, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) and the following convictions for § 87(2)(b)

§ 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian CCRB Histories (encl. 2C-D)

§ 87(2)(b) and § 87(2)(b) have been involved in the following other CCRB complaints:

§ 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject Officer CCRB Histories (encl. 1A-B)

- Officer Molaro has been a member of the service for 18 years and there are no substantiated CCRB allegations against him
- Officer Xhidija has been a member of the service for 10 years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officers

- Officer Molaro acknowledged that he and Officer Xhidija stopped § 87(2)(b). The investigation credits the civilians' testimony that Officer Xhidija stopped § 87(2)(b) prior to the interaction with § 87(2)(b). Therefore, Allegations A and C are pleaded against Officer Xhidija, and Allegation D is pleaded against Officer Molaro.
- Officer Molaro identified Officer Xhidija as the officer who used the word "retarded" on the recording. This is consistent with the civilian's physical descriptions, and the sound of the voice on the recording more closely resembles that of Officer Xhidija than Officer Molaro. Therefore, Allegation B is pleaded against Officer Xhidija.

Allegations Not Pleased

The civilians alleged that Officer Xhidija grabbed § 87(2)(b) by the arms, put him against the wall, and attempted to handcuff him. § 87(2)(b) received no injuries. Because the purpose of the contact was to physically detain § 87(2)(b) and the force itself did not rise to the level of misconduct, it is subsumed within Allegation C, and no separate allegation of physical force is pleaded.

Investigative Findings and Recommendations

Allegation A – Officer Adriatic Xhidija stopped § 87(2)(b)

§ 87(2)(b) alleged that Officer Xhidiya stopped her outside § 87(2)(b). She stated that Officer Xhidiya told her the officers were looking for a female, asked for her ID, and said that if she did not provide it, she would be arrested. She stated that she then called § 87(2)(b) to bring her ID. § 87(2)(b) stated that § 87(2)(b) called him and said that officers were harassing her because she did not have her ID.

Officer Xhidiya had no recollection of the incident. Officer Molaro stated that the officers were looking for a missing girl and stopped § 87(2)(b) (see Allegations D and E). He stated that § 87(2)(b) arrived during the stop of § 87(2)(b) and at that time, she yelled at the officers and may have been asked for her ID because the officers were considering issuing her a disorderly conduct summons. He denied that the officers had any interaction with § 87(2)(b) prior to the stop of § 87(2)(b) and denied that she was told she would be arrested for not providing identification.

§ 87(2)(g)

[REDACTED]

An officer may approach an individual to request information if there exists an objective credible reason for that approach. A stop requires reasonable suspicion that the individual has committed, is committing, or is about to commit a crime. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1A-K).

§ 87(2)(g)

[REDACTED]

Allegation B – Officer Adriatic Xhidiya spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that Officer Xhidiya asked for his name, and that when § 87(2)(b) ignored him, Officer Xhidiya asked him, “Are you retarded?” § 87(2)(b) provided an audio recording which corroborates this account. While Officer Xhidiya denied knowledge of the incident and stated that he did not recognize the voices on the recording, Officer Molaro listened to the recording and identified the person saying, “Are you retarded?” as Officer Xhidiya.

Section 203-09 of the NYPD Patrol Guide states that officers must be “courteous and respectful” (encl. 1FF). In certain stressful street encounters, an officer may use profanity where needed to

gain compliance or maintain control of a situation. NYPD v. Court, OATH Index 79627/04 (encl. 1L-U).

§ 87(2)(g)

Allegation C – Officer Adriatic Xhidija stopped § 87(2)(b)

Allegation D – Officer Matthew Molaro stopped § 87(2)(b)

The civilians alleged that § 87(2)(b) was stopped by both officers after § 87(2)(b) was stopped by Officer Xhidija. § 87(2)(b) stated that after she called § 87(2)(b) to bring her ID, he arrived and walked past the officers. Officer Xhidija then grabbed his arms and put him against a wall. § 87(2)(b) corroborated § 87(2)(b)'s testimony and added that Officer Xhidija asked for his name prior to stopping him. In the audio recording § 87(2)(b) provided, Officer Xhidija can be heard saying to § 87(2)(b) “Stop,” and “I asked you a question.”

As noted above, Officer Xhidija had no recollection of the incident. However, Officer Molaro acknowledged that he and Officer Xhidija stopped § 87(2)(b). He stated that the officers were looking for a missing girl, and that Officer Xhidija initially asked § 87(2)(b) in the lobby of the building either for his name or whether he had seen the girl. Officer Molaro stated that § 87(2)(b) then cursed at the officers and refused to talk to them, and that the officers then asked him for his ID. § 87(2)(b) continued to walk out the building, and the officers followed him. He denied that there was any physical contact between the officers and § 87(2)(b).

An officer may approach an individual to request information if there exists an objective credible reason for that approach. A stop requires reasonable suspicion that the individual has committed, is committing, or is about to commit a crime. People v. DeBour (encl. 1A-K). Upon encountering a potentially unauthorized person within NYCHA property, an officer is to question the person regarding their presence in the building. If the person is unable or unwilling to explain his presence, the officer may instruct him to leave. The officer may then arrest the person for trespassing if he refuses to exit the building. NYPD Interim Order 23 (2010) (encl. 1V-Y). Merely leaving a trespass affidavit building does not provide an objective credible reason for officers to approach an individual. People v. Almonte, 927 N.Y. 2d 818 (2011) (encl. 1Z-AA).

Officer Molaro provided two possible reasons for the initial approach of § 87(2)(b): a request for information about the missing girl, and a need to ascertain whether he lived in the building.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation I – Other: PO Adriatic Xhidija made a false official statement when he denied conducting any stops, being at § 87(2)(b) hearing his own voice on a recording and calling an individual "retarded".

During his interview at the CCRB, Officer Xhidija stated that he did not make any stops on the date of the incident and that he was not at § 87(2)(b) in Brooklyn. Though the roll call indicated that he worked with Officer Molaro, Officer Xhidija did not indicate so in his memo book and had no specific recollection that the two were partnered. Additionally, when given details about the incident and when he listened to the recording, PO Xhidija stated that the details did not sound familiar, denied hearing his own voice and denied that he called an individual “retarded”.

Where an officer makes an intentionally untruthful statement to protect himself and conceal material facts, he is guilty of a false official statement. NYPD v Ortiz, OATH Index No 1626/97 (encl. 1GG-1QQ).

§ 87(2)(g)

First, he denied conducting any stops on the date in question. § 87(2)(g) he denied making any stops on the entire day, stating that, if he had done so, they would be included in his memo book.

Not only did PO Xhidija deny making any stops on the date in question, he also denied being at § 87(2)(b) the location of the incident, on that date. § 87(2)(g)

§ 87(2)(g)

His statements are completely contradicted by PO Molaro, who acknowledged participating in the stops of § 87(2)(b) and § 87(2)(b) on the date of the incident. PO Molaro also stated that PO Xhidija participated in the stops with him and that PO Xhidija asked § 87(2)(b) whether he was “retarded.” Only when shown roll call documents proving that he worked with PO Molaro on the incident date did PO Xhidija even acknowledge the possibility that the two worked together that day § 87(2)(g)

§ 87(2)(g)

The audio recording captures clearly PO Xhidija’s discourteous question to § 87(2)(b) PO Molaro told the CCRB that he recognized the voice uttering the discourteous question as that of PO Xhidija. Even in the face of audio evidence readily identifiable by PO Molaro, PO Xhidija maintained that he neither called anyone “retarded” nor heard any other officer do so.

§ 87(2)(g)

§ 87(2)(g)

Team: _____

:

Investigator: _____

Signature

Print

Date

Supervisor: _____

Title/Signature

Print

Date

Reviewer: _____

Title/Signature

Print

Date

Reviewer: _____

Title/Signature

Print

Date

Interview Details

3:00 p.m.

On March 21, 2012, [REDACTED] was interviewed at the CCRB. [REDACTED] is a [REDACTED]-year-old black female, 5'4" tall, 110 lbs., with brown hair and brown eyes.

CCRB Testimony

On February 29, 2012, [REDACTED] left her home located at [REDACTED] within a NYCHA development, and walked to a store located at [REDACTED] in Brooklyn. She was wearing a black North Face jacket and jeans. She was holding her cell phone in her right hand and had her keys in her right jacket pocket. She did not stop anywhere or interact with anyone on the way to the store. She bought chips, cookies, candy, and soda from the store and walked back towards her home. She was holding a black plastic bag in her left hand containing the objects she bought. She did not stop anywhere or interact with anyone on the way back.

She was walking home and cut through [REDACTED] to get to the building behind it, [REDACTED]. At approximately 1:34 a.m., [REDACTED] was behind [REDACTED] when a marked police van pulled up and PO1, described as a white male, 6'2" tall, 230 lbs., medium build, with brown hair and in uniform, exited the passenger's seat and approached [REDACTED] and asked her for her name. [REDACTED] asked why. PO1 told [REDACTED] he was looking for a female but did not provide any further description or why he was looking for a female and asked for [REDACTED] ID. [REDACTED] told PO1 that she did not have an ID on her. PO1 told [REDACTED] she could be arrested for not having ID and he would have to take her in. [REDACTED] asked if she could call her brother to bring her ID and PO1 agreed. [REDACTED] called her brother, [REDACTED] to come and bring her ID.

PO2, described as a white male, 5'4"-5'6" tall, large build, with black hair, and glasses, exited the driver's seat of the vehicle and went inside the building with PO1. [REDACTED] waited outside the door for her brother. Shortly afterwards, [REDACTED] came downstairs and gave [REDACTED] her ID and they both started to walk away. PO1 and PO2 followed them and PO1 grabbed [REDACTED] arms, pushed him against a wall, put his hands behind his back, and held him on the wall for approximately three minutes. [REDACTED] was yelling and cursing and [REDACTED] was yelling. [REDACTED] resisted by moving his arms which freed his arms from the officers. [REDACTED] older sister arrived on scene at this point and asked what was going on. The officers then said they were going to let them go and called them "punks" and walked away. The officers never wrote down any information.

3:15 p.m.

Interview Details

3:21 p.m.

On March 21, 2012, [REDACTED] was interviewed at the CCRB. [REDACTED] is a [REDACTED]-year-old black male, 5'11" tall, 160 lbs., with black hair and brown eyes.

CCRB Testimony

On February 29, 2012 at approximately 1:24 a.m., [REDACTED] was at home when he received a call from his sister, [REDACTED] informing him that she was being harassed by police officers behind [REDACTED] because she did not have an ID. [REDACTED] immediately left and went to give his sister her ID. [REDACTED] walked through [REDACTED] to get to the back of the building. There were two uniformed officers standing near the door to the back of the building where [REDACTED] was. He also turned on an audio recorder on his cell phone at this time. PO1, described as a white male, 6'2" tall, 180-200 lbs., with dark hair, asked [REDACTED] for his name. [REDACTED] ignored PO1 and walked out the door to get to his sister.

PO1 said "Are you retarded? I asked you a question." and followed him out. PO1 grabbed [REDACTED] forearms, put his hands behind his back, and pushed him against the open door. [REDACTED] resisted by yelling that the officers had no authority over him and moving his shoulders and arms from side to side. PO1 attempted to handcuff [REDACTED] PO2, described as a white male, 5'10"-5'11" tall, 180-200 lbs., with dark hair and brown eyes, just stood to the side and watched. [REDACTED] older sister, [REDACTED] came on scene at this point and asked what was going on. PO1 let go of [REDACTED] and the officers then left the scene. [REDACTED] turned off the recorder at this point. The officers did not speak to [REDACTED] or [REDACTED] while [REDACTED] was on scene. [REDACTED] noticed a marked police van in the vicinity. The three of them then went back home.

At 12:15, [REDACTED] played a recording of the incident and narrated it. The recording begins at 1:24 a.m. and ends at 1:25 a.m. on February 29, 2012. It begins when [REDACTED] entered [REDACTED] and ends after he was let go and was leaving the scene. PO1 is heard saying "who are you." The door can be heard opening as [REDACTED] ignored him. PO1 told [REDACTED] to stop and asked him if he was "retarded." There is then shouting. [REDACTED] identified the female voice as [REDACTED] his voice as the one saying "you have no authority over me" and the other male voice as PO1. PO1 is the only officer heard on the recording.

3:36 p.m.

Interview Details

10:35 a.m.

On July 20, 2012, Officer Adriatic Xhidija was interviewed at the CCRB. Officer Xhidija is a white male, age [REDACTED] 6'1" tall and 235 lbs. with brown hair and eyes.

Officer Xhidija worked a patrol assignment from 11:15 p.m. on February 28, 2012, until 7:50 a.m. on the following day. He did not recall who his partner was and did not have this information noted in his memo book. He was assigned to marked van # [REDACTED] and was dressed in uniform. He had no memo book entries regarding the incident, and the following entries for the time of the incident: At 1:00 a.m., vertical patrol at [REDACTED] At 1:10 a.m., resumed patrol. At 1:50 a.m., Brooklyn South mobilization at Stuart Street and Avenue U.

Officer Xhidija had no recollection of the incident. At 1:50 a.m., he responded to a Level I mobilization in Marine Park at Stuart Street and Avenue U. When he arrived at the location, he learned that the mobilization was a drill. He had no interactions with any civilians during the mobilization.

Officer Xhidija did not conduct any stops on the date of the incident. If he had, they would have been noted in his memo book. Officer Xhidija was not at [REDACTED] at any time on the date of the incident. He was given a brief summary of the incident, but the details did not sound familiar to him. He did not recognize [REDACTED] and [REDACTED] when shown their photographs. When told that the roll call indicates that he worked with Officer Molaro, he stated that this was possible, but had no specific recollection. He did not recall if he was the driver or passenger of the van he was assigned to. He was played the audio recording [REDACTED] provided of the incident and did not recall having any such interaction on the date of the incident. He did not recognize any of the voices on the recording. He did not call any individual "retarded" on the date of the incident and did not hear any other officer do so.

10:45 a.m.

Interview Details

9:52 a.m.

On July 26, 2012, Officer Matthew Molaro was interviewed at the CCRB. Officer Molaro is a white male, age [REDACTED], 5'7" tall and 240 lbs. with salt-and-pepper hair and hazel eyes.

Officer Molaro was assigned to Sectors A through D with Officer Xhidiya from 7:05 p.m. on February 28, 2012, until 3:40 a.m. on the following day. He was dressed in uniform and assigned to a marked van. He was the operator of the van. He had no memo book entries regarding this incident, and had the following entries for the time of the incident: At 11:40 p.m., received radio run of missing at [REDACTED]. At 12:10 a.m., family dispute at [REDACTED]. At 12:20 a.m., family dispute unfounded, two summonses issued. At 12:45 a.m., vertical patrol at [REDACTED] in regard to missing person. At 2:20 a.m., missing returned.

At 11:40 p.m. on February 28, 2012, Officers Molaro and Xhidiya received a radio run regarding a female who had been reported missing from her apartment at [REDACTED]. The female was approximately [REDACTED] years old, and her mother stated that she had gone missing at approximately 11:00 p.m. The officers responded to [REDACTED] but at 12:10 a.m., were then assigned a job regarding a family dispute at [REDACTED]. Because the dispute took precedence, the officers went to [REDACTED] where they unfounded the job and issued two individuals summonses. They returned to [REDACTED] at 12:45 a.m. to look for the missing girl.

At approximately 1:30 a.m., they were in the lobby of the building when [REDACTED] entered through the rear of the building and passed through the lobby. He was smoking a cigarette and had headphones on. Officer Molaro believed Officer Xhidiya spoke to [REDACTED] and either asked him if he lived in the building or if he had seen the missing girl. [REDACTED] became very loud and cursed at the officers, telling them that he did not have to talk to them. Officer Molaro asked if he lived in [REDACTED] and he said he lived in the building next door. One of the officers asked [REDACTED] for his ID to confirm his address. Officer Molaro did not believe [REDACTED] provided his ID. He continued to walk and exiting the building through the front entrance. The officers followed him and spoke with him outside the front entrance.

About two or three minutes after the officers initially spoke to [REDACTED] [REDACTED] then exited the building [REDACTED] had indicated he lived in. [REDACTED] began yelling at the officers, asking why they had stopped [REDACTED] and screaming that he had not done anything wrong. The officers had not seen or interacted with [REDACTED] prior to this point in the incident. Officer Xhidiya said they were just asking [REDACTED] questions because they were looking for a missing girl. Both [REDACTED] and [REDACTED] continued to be loud and belligerent, cursing and screaming. Officer Molaro believed [REDACTED] was asked for her ID because the officers were considering issuing her a disorderly conduct summons, but was not certain of this. [REDACTED] demanded the officers' names and shield numbers, which they provided. [REDACTED] and [REDACTED] told the officers that [REDACTED] had just been arrested a few weeks before, and they were angry about that situation. The officers' interaction with the individuals lasted for three or four minutes after [REDACTED] arrived. Officer Molaro then told her and [REDACTED] to have a good night because he was more concerned about finding the missing girl.

Neither officer threatened to arrest either [REDACTED] or [REDACTED]. Officer Molaro did not believe there was any physical contact between the officers and [REDACTED] including placing him against a wall. Neither officer threatened to arrest [REDACTED] or [REDACTED]. Officer Molaro initially stated that he did not recall either himself or Officer Xhidiya calling [REDACTED] "retarded." However, he was then played the recording [REDACTED] provided and stated that he recognized the interaction from this incident. He stated that he heard [REDACTED] [REDACTED] and Officer Xhidiya's voices on the recording, and did not hear his own. He stated that the only officer speaking on the recording was Officer Xhidiya, and specifically confirmed that the voice saying to [REDACTED] "We asked you a question. Are you retarded?" sounded like that of Officer Xhidiya. No other officers were present at the scene.

10:11 a.m.



Eric Gonzalez
District Attorney

**DISTRICT ATTORNEY
KINGS COUNTY**

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[INSERT NAME]
Assistant District Attorney

[INSERT DATE]

[INSERT D/C INFO]

Re: [INSERT CASE NAME]
Kings County Dkt./Ind. No. [#####]

In connection with the above-named case, the People voluntarily provide the following information regarding:

MOS NAME: **ADRIATIC XHIDIJA**

MOS TAX: [REDACTED]

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

Disclosure # 1:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATION(S), DATED 02/29/2012, AGAINST MOS XHIDIJA:

1. MOS XHIDIJA, ASSIGNED TO PSA 1, ON 02/29/2012, IMPROPERLY STOPPED INDIVIDUALS KNOWN TO THE DEPARTMENT
 2. MOS XHIDIJA, SPOKE RUDELY TO AN INDIVIDUAL KNOWN TO THE DEPARTMENT
 3. MOS XHIDIJA, FAILED TO MAKE COMPLETE ACTIVITY LOG ENTRIES REGARDING AN INCIDENT
 4. MOS XHIDIJA FAILED TO PREPARE A UF -250'S REGARDING THE AFOREMENTIONED STOPS
- CASE STATUS: CLOSED ON 08/06/2013

ACTION TAKEN: SCHEDULE B COMMAND DISCIPLINE, FORFEITURE OF THREE (3) VACATION DAYS

Disclosure # 2:

MOS XHIDIJA PLED GUILTY TO THE FOLLOWING NYPD DEPARTMENTAL CHARGES AND SPECIFICATIONS:

1. MOS XHIDIJA, ASSIGNED TO PSA 1, ON OR ABOUT JANUARY 18, 2012, AT A LOCATION KNOWN TO THE DEPARTMENT, IN KINGS COUNTY, DID FAIL AND NEGLECT TO PERFORM SAID OFFICER'S DUTIES, TO WIT: MOS XHIDIJA FAILED TO TAKE POLICE ACTION AND PROPERLY INVESTIGATE AN INCIDENT INVOLVING AN OFF DUTY AUXILIARY POLICE OFFICER WHO WAS THE VICTIM OF AN ASSAULT AND ROBBERY.
2. MOS XHIDIJA, ASSIGNED TO PSA 1, ON OR ABOUT JANUARY 18, 2012, AT A LOCATION KNOWN TO THE DEPARTMENT, IN KINGS COUNTY, DID FAIL AND NEGLECT TO MAINTAIN HIS ACTIVITY LOG AS REQUIRED.
3. MOS XHIDIJA, ASSIGNED TO PSA 1, ON OR ABOUT JANUARY 18, 2012, AT A LOCATION KNOWN TO THE DEPARTMENT, IN KINGS COUNTY, DID FAIL AND NEGLECT TO TRANSMIT A PROPER INTERIM OR FINAL DISPOSITION ON A DEPARTMENT RADIO.
4. MOS XHIDIJA, ASSIGNED TO PSA 1, ON OR ABOUT MARCH 14, 2012, AT A LOCATION KNOWN TO THE DEPARTMENT, DID WRONGFULLY AND WITHOUT JUST CAUSE PREVENT OR INTERFERE WITH AN OFFICIAL DEPARTMENT INVESTIGATION, TO WIT: MOS XHIDIJA MADE MISLEADING STATEMENTS TO MEMBERS OF THE DEPARTMENT DURING AN OFFICIAL DEPARTMENT INTERVIEW REGARDING AN INCIDENT INVOLVING AN OFF DUTY AUXILIARY POLICE OFFICER WHO WAS THE VICTIM OF AN ASSAULT AND ROBBERY.

CASE STATUS: CLOSED ON 10/07/2014

ACTION TAKEN: FORFEITURE OF TWENTY (20) VACATION DAYS

BASED UPON CCRB DOCUMENTS UP TO DATE THROUGH OCTOBER 13, 2020, THE PEOPLE ARE AWARE OF THE FOLLOWING CCRB SUBSTANTIATED AND/OR PENDING ALLEGATIONS AGAINST THIS OFFICER:

Disclosure # 3:

CCRB CASE: 201202858

REPORT DATE: 03/05/2012

INCIDENT DATE: 02/29/2012

CCRB SUBSTANTIATED ALLEGATIONS:

1. ABUSE – STOP
2. ABUSE – STOP
3. DISCOURTESY – WORD

NYPD DISPOSITION: COMMAND DISCIPLINE – B, PENALTY OF COMMAND DISCIPLINE - B

OTHER MISCONDUCT NOTED:

1. OMN - FAILURE TO PREPARE A MEMOBOOK ENTRY
2. OMN - FAILURE TO PRODUCE STOP AND FRISK REPORT
3. OMN - OTHER MISCONDUCT

NYPD DISPOSITION: NO DISCIPLINARY ACTION – DUP #1 & #3, COMMAND DISCIPLINE – B # 2, PENALTY OF COMMAND DISCIPLINE - B

Eric Gonzalez
District Attorney
Kings County